



Virginia
Regulatory
Town Hall

Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	4 VAC 15
VAC Chapter Number:	370
Regulation Title:	Watercraft: In General.
Action Title:	Retain regulation.
Date:	March 19, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

This regulation incorporates within it federal regulations and statutes concerning boating safety equipment and lights to apply to vessels in Virginia. It also adopts the national standards for uniform waterway markers and aids to navigation (road signs of the waterways).

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

Section 29.1-735 of the Code of Virginia. Regulations for vessel operation and equipment.

State or federal law or regulation does not mandate this regulation. The boating safety equipment requirements apply to all watercraft used or capable of being used as a means of transportation on the water.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No citizen comments were mailed, emailed or otherwise received regarding this regulation during the announced periodic review comment period as provided in the Notice of Periodic Review published in the *Virginia Register*. The comment period closed Tuesday, January 9, at 5 p.m. No informal advisory group was formed nor is advisory group formation planned.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The specific goals of this regulation are: (1) to prevent and minimize boating related fatalities, injuries and property damage; and (2) to improve and standardize boating safety by making rules of navigation and required safety equipment consistent with national standards.

Boating has an inherent degree of risk associated with it. Drowning, collisions and fires are a few of the potential hazards boaters may face. Boat operation rules and equipment required by this regulation, can assist boaters in surviving or preventing catastrophes

This regulation coupled with other boating safety laws, the Department of Game and Inland Fisheries' boating safety education efforts and law enforcement activities has been effective. Boating accident rates have declined in the last three years from one accident for every 1026 registered boats in 1997 to one accident for every 1193 registered boats in 1999. Though minimal in the degree of improvement, the three-year improvement from 1997 through 1999 broke a steady decline of the rate from 1991 through 1997.

This regulation is essential to protect the health and safety of citizens using public inland waters by providing a means to minimize boating accidents, which can be harmful or fatal to the individual. When boating accidents do occur, this regulation contains provisions designed to maximize the chances that citizens will survive and/or are unharmed by the accident, and be rescued if rescue is needed.

The regulation is essential to protect citizens' welfare by providing means to minimize property damage from boating accidents, and by enabling waterborne commerce to take place with minimal hazard. This regulation provides the recreational boater in Virginia a set of navigational rules and equipment requirements consistent with other states, and recognizes certain international rules of navigation, which are important to those who navigate commercial vessels within the waters of the Commonwealth.

Boaters are required to have basic equipment on board; (a) lights, (b) life preservers (personal flotation devices), (c) fire extinguisher, (d) ventilation. Not all boats are required to have all the specified equipment. These requirements are dependent on the boat size, boat type, when it is operated and engine type. They are intended to be the minimal requirements and are essential for the safety of boaters. Citizens utilizing Virginia's waterways can prevent or deal with emergencies more effectively utilizing the required safety equipment.

This regulation adopts applicable Federal regulations and statutes concerning boating safety. The regulation is clear and readily understood by boaters of the Commonwealth and by boaters visiting from other states.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

Alternatives Considered:

Alternative 1: No regulation in place.

Description: Leave this activity unregulated by the state.

Level of burden to the public: No regulation would not be less burdensome to the boating public. Federal regulation 33 CFR Ch.1. Part 175 would regulate boating safety equipment requirements in the absence of state regulations.

Satisfies essential government function: Yes. Either the state or federal regulations would apply.

Discussion: Alternative 1 was rejected federal regulations would not be less burdensome on Virginia's boaters, and there is no indication federal regulations would be less intrusive or more clearly understood.

Alternative 2: Regulation as passed.

Description: Minimal equipment requirements based on size and type of boat.

Equipment requirements not required for all boats. Boat navigation rules minimal to protect life and property.

Level of burden to the public: A regulation under this alternative would be a low or moderate burden on the boating public.

Satisfies essential government function: Yes. Equipment requirements are adequate for the sizes and types of boats. Boat operation rules are adequate to protect lives and property.

Discussion: The regulation as in effect is the preferred alternative and places a low burden on boaters. Noncompliance issues are generally resolved in state courts.

Alternative 3: Higher level of regulation.

Description: Equipment requirements identical for all boats. Boat navigation rules would be enhanced.

Level of burden to the public: High.

Satisfies essential government function: Yes. Equipment requirements would be more than adequate and navigation rules would be enhanced.

Discussion: Just like no regulation would break the continuity of boating safety requirements among our adjoining states, increasing the level of regulation would likewise break the continuity. Existing boating safety efforts have resulted in a 3-year improvement in boating accident rates. Additional regulation is not warranted at this time.

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency recommends that the regulation stay in effect without change.

Family Impact Statement

Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.

Reducing boater injury, loss of life, and economic costs associated with accidents should all support the institution of the family. In addition, boating is a family affair and affords the opportunity strengthen family relationships through shared outdoor activity.

In return for this low level of imposition and interference, boating regulations provide the rules needed to ensure the safety of citizens on Virginia waters. Private businesses that sell boats, marine equipment, and provide other goods and services related to the boating industry all benefit from compliance. Families are strengthened by the economic returns from the industry.

Boating participation and boating tourism are enhanced both by the public's perception that safe boating conditions exist on Virginia's waterways, and by the public's familiarity with watercraft regulations in the state. Boating safety regulations that are uniform in Virginia and nationwide support boating tourism and the associated economic benefits flowing to the private enterprises that serve that market. Jobs created by tourism support economic stability for families profiting from tourism.

This regulation has minimal impacts on the authority and rights of parents in the education, nurturing and supervision of their children. It does set certain requirements for lifesaving devices on watercraft, but these requirements apply equally as well to adults. It has little impact on encouraging or discouraging economic self-sufficiency, self-pride or the assumption of responsibility for oneself or family members. The marital commitment is unaffected by this regulation.

This regulation does encourage economic self-sufficiency by providing jobs related to the watercraft industry and waterborne commerce that may not otherwise be available if Virginia's waterways were deemed unsafe for recreational boating.